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IN THE

# Supreme Court of the United States

October Term, 1972

No. .....

MAX KOSHER,
*Petitioner,*

v.

WASHINGTON STATE BAR ASSOCIATION,
*Respondent.*

## ANSWER TO PETITION BY WASHINGTON STATE BAR ASSOCIATION

### STATEMENT OF ISSUE

The only issue in this case is whether or not a significant issue of constitutional law is presented by the petition. We contend there is none.

### STATEMENT OF THE CASE

Commencing at page A-1 of Appendix A of petitioner's brief, the Order of the Supreme Court of the State of Washington dismissing Mr. Kosher's complaint, in which he attempted to have the Order of Disbarment set aside on equitable and constitutional grounds, is set forth in full.

The Washington State Bar Association (hereinafter referred to as the Association) respectfully refers the Court

to that Order for a correct statement of the significant facts involved in this proceeding.

Commencing at page A-9 of Appendix B, petitioner has set forth the Opinion of the Supreme Court of the State of Washington dated May 24, 1962 in which the Court disbarred Mr. Kosher. That Opinion represents the best statement of the grounds upon which Mr. Kosher was disbarred.

A chronology of the events involved in this matter is as follows:

September 10, 1947 — Mr. Kosher admitted to the Bar of the State of Washington.

September 23, 1960 — Power of attorney to his brother executed.

July 31, 1961 — Complaint and disciplinary proceeding served on Celia Kosher, the mother of Max Kosher.

August 1, 1961 — Notice and complaint mailed to Mr. Kosher at his office registered with the Washington State Bar Association.

August 14, 1961 — Supplemental complaint and notice served on Ike Kosher, the father of Max Kosher.

August 31, 1961 — Mr. William Lanning, attorney at law, filed an answer on behalf of Mr. Kosher.

November 8, 1961 — Hearing on the complaint scheduled and notices mailed.

November 29, 1961 — Hearing commenced.

January 5, 1962 — Power of attorney to Mr. Kosher's brother recorded.

May 24, 1962 — Record on disbarment proceeding filed in the Supreme Court of the State of Washington.

January 10, 1963 — Judgment of disbarment entered.

March 26, 1971 — Mr. Kosher filed his complaint to vacate the disbarment proceeding in the Supreme Court of the State of Washington.

The brief of the Washington State Bar Association that was filed with the Supreme Court of the State of Washington is included in the records before this Court as document number 70 pages 229 to 247. At page 3 of that brief (Tr. 234) the applicable rules for service of notice to attorneys involved in disciplinary proceedings is set forth. The rule is reasonable and was fully complied with in Mr. Kosher's disbarment proceeding.

Commencing at page 9 of that brief (Tr. 240) the argument in support of the motion to quash Mr. Kosher's complaint is stated. It would serve no useful purpose to prolong this brief by restating that argument.

## SUMMARY

A review of this entire record discloses, in brief summary, that Max Kosher, a member of the Bar of the State of Washington, voluntarily left the United States in late October of 1960 while a criminal proceeding was in trial and to which trial Mr. Kosher had been subpoenaed as a witness. Because his attendance as a witness could not be secured, a contempt citation and bench warrant for his apprehension were issued on November 3, 1960.

Mr. Kosher remained outside the United States until after said citation and bench warrant were dismissed in June of 1966.

After the bench warrant was dismissed, Mr. Kosher returned to the United States and several years after his return filed his complaint with the Supreme Court of the

State of Washington seeking to vacate the disbarment proceeding.

The record in the disbarment proceeding and before the Supreme Court of the United States amply supports the judgment of disbarment.

Mr. Kosher's claim that he was denied counsel is a hollow and deceptive claim. He himself is a lawyer. He fully understood the nature of the disciplinary proceeding. He had every opportunity to have a lawyer there representing him if he wanted representation. Mr. Kosher made a special point of having no direct contact with Mr. Lanning, the attorney who was retained by Mr. Kosher's family to represent Mr. Kosher but who had to advise the hearing panel candidly that he had no contact "directly or indirectly' with Max Kosher.

Mr. Kosher's claim that he knew nothing about the disbarment proceeding is completely unbelievable and incredible. Although Mr. Kosher would have us believe that he had no contact with his family, there was testimony in the proceeding that both his brother, William Kosher, who lived at Mr. Kosher's usual place of abode in Everett, Washington with his parents and Foster James Rochan, a close friend of Mr. Kosher, both testified that they were in communication with him and had an address for him after he had left the country. They further stated that his address had been communicated to the attorney who was left in charge of Mr. Kosher's law office during his absence. See Finding 15 (Page 5) of the Supreme Court's Order of January 11, 1972 dismissing Mr. Kosher's Complaint (Page A-5 Petitioner's Brief).

## CONCLUSION

It is respectfully submitted that the judgment of disbarment is amply supported by the evidence which was submitted in accordance with rules and procedures in effect at the time governing disciplinary proceedings in the State of Washington. All of the notice that could have possibly been given was given Mr. Kosher and he ignored it. In order to avoid prosecution he carefully concealed his whereabouts from the Washington State Bar Association. Under these circumstances he has no cause for complaint.

Respectfully submitted,

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